IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1983

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No. 83-465

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EDWARD RONWIN,

Petitioner,

v.

THE SUPREME COURT
OF THE STATE OF
ARIZONA,

Respondent.

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# BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA

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## QUESTION PRESENTED FOR REVIEW

Did Respondent Court Deprive Petitioner Of Any Right, Privilege Or Immunity Secured By The United States Constitution Or Laws?

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## STATEMENT OF JURISDICTION

Respondent does not question the jurisdiction of this Court to issue a Writ of Certiorari to the Supreme Court of Arizona in an appropriate case under 28 U.S.C. §1257(3).

However, petitioner has failed to comply with Rules 17 and 21(j), Rules of the United States Supreme Court, by failing to specify any special or important reason for this Court to grant review on a Writ of Certiorari. In fact, the only issue in this action is extremely narrow, applies to one limited situation, and was decided by the Arizona Supreme Court on a basis fully consistent with prior decisions of this Court.

## STATUTES AND RULES INVOLVED

Rule 28(a) and the applicable parts of Rule 28(c), Rules of the Arizona Supreme Court, are set forth in the Appendix at A-1.

## OPINION BELOW

The Opinion of the Arizona Supreme Court, In the Matter of Ronwin, ____ Ariz. ____, ____ P.2d ____, No. SB 52-8/52-9 (filed July 6, 1983), is set forth in the Appendix to Petitioner's Brief (hereinafter "Pet. App.") at page A-1.

## STATEMENT OF THE CASE

Petitioner's attempt to gain admission to the practice of law in the State of Arizona has resulted in several judicial proceedings, reference to which is necessary to understand the background of the current Petition.

Rule 28(c)(IV), Rules of the Arizona Supreme Court, defines the requirements which applicants for admission to the State Bar of Arizona must meet. The rule requires that a Committee on Character and Fitness ("Committee"), appointed by the Arizona Supreme Court, recommend an

applicant for admission to the State Bar of Arizona only if the Committee is satisfied that the applicant is "mentally and physically able to engage in active and continuous practice of law." (A-2).

Petitioner sat for and failed Arizona's February, 1974 bar examination, and ultimately requested this Court to review his examination results on a Writ of Certiorari, which request was denied. Ronwin v. Committee on Examinations and Admissions of the Supreme Court of Arizona, 419 U.S.967 (1974).

Petitioner applied for permission to take the July, 1974 examination; however the Committee informed Petitioner it was unable to find him mentally and physically able to engage in the active and continuous practice of law and, therefore, would not allow him to take the exam. On September 24, 1974, the Arizona Supreme

Court appointed a Special Committee on Examinations and Admissions ("Special Committee") to conduct a formal hearing pursuant to Rule 28(c)(XII)(D), Rules of the Arizona Supreme Court, for the sole purpose of determining whether Petitioner was mentally able to engage in the continuous practice of law.

Following completion of substantial discovery, the Special Committee held a formal hearing on January 6 and 7, 1975. Petitioner was present and represented by counsel. During that hearing, the Special Committee heard the testimony of 17 witnesses, including Petitioner, and received 20 exhibits in evidence. Included in the exhibits was deposition testimony of four additional witnesses. The witnesses included academic associates, some of petitioner's law school professors and fellow students, practicing attorneys for

whom petitioner had done legal research, two psychiatrists and one clinical psychologist.

On January 21, 1975, the Special Committee issued its findings and concluded Petitioner was not mentally able to engage in active and continuous practice of law.

On January 28, 1975, Petitioner filed a Petition for Review with the Arizona Supreme Court, the body responsible for finally determining questions of admissions. (See Rule 28(a), A-1). On July 6, 1976, the Arizona Supreme Court, after independently analyzing the record of the hearing, unanimously affirmed the Special Committee's conclusion and denied petitioner's application to be admitted to the State Bar. Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976). A Petition for a Writ of Certiorari filed

in January, 1977, seeking review of this decision, was denied. Ronwin v. The Committee on Examinations and Admissions of the Supreme Court of Arizona, 430 U.S. 907 (1977).

While review of the decision in Application of Ronwin, supra, was pending, Petitioner commenced two actions in the United States District Court for the District of Arizona, both based upon alleged violations of the Civil Rights Act of 1866, 42 U.S.C. §1981, et seq. The first, Ronwin v. Daughton, No. CIV 76-872 PHX MLR, named as defendants the members of the Special Committee; the Dean and Associate Dean of Arizona State University College of Law, both of whom had testified on behalf of Petitioner at the Special Committee's hearing; the attorney who represented the State Bar of Arizona during the hearing; a psychologist who

testified at such hearing; and Petitioner's own lawyer, claiming that they had all conspired to "orchestrate" a sham proceeding. The Ninth Circuit Court of Appeals affirmed the district court's granting of judgment in favor of defendants. Ronwin v. Daughton, No. 77-2318 (9th Cir. August 9, 1979).

The second action, Ronwin v. Segal, No. CIV 76-924 PHX MLR, named as defendants the members of Arizona's Committee on Character and Fitness, and was filed when the Committee failed to recommend Petitioner for admission to the Arizona Bar following his application of August 30, 1976. The Ninth Circuit Court of Appeals affirmed the granting of judgment in favor of respondents, Ronwin v. Segal, No. 77-2567 (9th Cir. November 14, 1980), and this Court denied Ronwin's Petition for a Writ of Certiorari, Ronwin v. Segal, 450 U.S. 1041 (1981).

Petitioner reapplied to take the Arizona bar exam in February and July, 1977, February, 1978, February, 1979, and in February, 1980. Each such application was denied.[1/] During this time period, Petitioner instituted further litigation directed to the denial of his admission to the State Bar of Arizona.

In Ronwin v. State Bar of Arizona, No. CIV 78-193 PHX WPC MLR, filed March 13, 1978, an antitrust action was dismissed by the federal district court on October 12, 1979. The Ninth Circuit of Appeals reversed in part, holding that, on the record as it existed at the time of the district court dismissal, it had not been sufficiently established that

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1/ Ronwin's Petition for a Writ of Certiorari concerning the denial of petitioner's application to take the February, 1978 bar examination was denied by this Court in Ronwin v. The Supreme Court of Arizona, 439 U.S. 828 (1978).

the allegedly anti-competitive bar examination procedures were "clearly articulated and affirmatively expressed as state policy" and "supervised" by the Arizona Supreme Court so as to qualify for immunity under the antitrust laws. 686 F.2d 692 (9th Cir. 1982), cert. granted, 51 U.S.L.W. 3825 (No. 82-1474) (May 16, 1983).

In Ronwin v. Gage, et al, No. CIV 78-214 PHX MLR, Petitioner brought a civil rights action against the State Bar Administrative Committee and its members, wherein Petitioner, inter alia, accused prominent attorneys (including his former counsel) of deceiving the Court as to the identity of a person who allegedly altered an official transcript; accused an Arizona Supreme Court Justice of ulterior motives; alleged that the 1975 hearing was an engineered sham soaked with fraud,

covered with unlawful activity of State Bar counsel, the Committee Chairman and members of the Committee; alleged that the State Bar's questioning of Petitioner's mental status was retaliation for his criticism for the method of grading the 1974 bar exam; and alleged that the claimed mental malady of Petitioner was a product of criminal minds. Summary judgment was granted defendants on October 12, 1979.

In Ronwin v. von Ammon (von Ammon I), No. CIV 79-175 PHX WEC CAM, another civil rights action brought in the federal district court of Arizona, Petitioner, inter alia, alleged that counsel for the State Bar had engaged in criminal activity by deliberately lying to the federal district court and the Arizona Supreme Court, and had attempted to play a fraud on those courts and that such fraud had been tol-

erated by the judiciary; alleged the same lawyers attempted to and did influence two federal judges surreptitiously; claimed that a federal judge knowingly tolerated illegal activity; alleged that the defendants conducted illicit schemes wherein members of the Arizona State Bar maintained unlawful contact with and influence over members of the Arizona and Federal judiciary; alleged that an Arizona Supreme Court Justice was fully in league with fraud perpetrated by the same lawyer; claimed that the principal defendant in the case, an attorney representing the State Bar, engaged in surreptitious signalling with the federal judge; alleged that evidence in Ronwin v. Daughton, supra, and Application of Ronwin, supra, had been tampered with and alleged that counsel for the State Bar had used tricks to avoid fair deposition

practice, reneged on agreements, was anti-Semitic and pro-Nazi, and used deliberate vilification and deception. This action was partially dismissed on May 21, 1979, and finally dismissed on July 19, 1980.

In Ronwin v. von Ammon (von Ammon II), No. CIV 80-289 PHX CAM, a civil rights action was filed in the federal district court in Arizona wherein Petitioner, inter alia, alleged that the actions of the Arizona Supreme Court Justices in denying admission to the Bar were "no longer to be taken as earnest judicial determinations"; asserted the existence of conspiracy and discrimination; alleged that a prominent attorney had engaged in criminal activity; claimed that a Motion for Security for Costs was granted by a Judge who was manipulated by the same prominent attorney and who knowingly tolerated

criminal behavior by the lawyers; alleged that the Motion for Security for Costs was a ruse intended to deny Petitioner his day in Court; asserted that members of the State Bar Committee had engaged in criminal denial of Petitioner's rights; alleged that the former Dean of the Arizona State University Law School participated in an engineered rigging of the Special Committee hearing; alleged that one or more of the Arizona Supreme Court Justices' law clerks had surreptitiously influenced and shaded the record and the Justices' view of matters; accused the Clerk of the United States District Court for the District of Arizona of engaging in a conspiracy; alleged that an assistant United States Attorney abandoned his obligations in defending a federal judge instead of prosecuting him; and alleged that the defendants fabricated evidence

to protect themselves against charges of misconduct. This action was dismissed in part on July 18, 1980, and in whole on January 28, 1981. Petitioner's appeals in von Ammon I and von Ammon II were consolidated (81-548 and 81-549) and affirmed by the Ninth Circuit Court of Appeals, Ronwin v. von Ammon, 688 F.2d 848 (9th Cir. 1982).

In Ronwin v. Shapiro, No. CIV 79-84 TUC MAR, Petitioner filed a defamation action against the author of a case note in the Arizona Law Review, the editor of the Review and the Arizona Board of Regents.[2/] This action was dismissed by the Federal District Court on January 25, 1980, and affirmed by the Ninth Circuit Court of Appeals, Ronwin v. Shapiro, 657 F.2d 1071 (9th Cir. 1981).

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2/ The subject Law Review article can be found at 19 Ariz. L. Rev. 672-683 (1977).

Petitioner's eighth application for admission (SB-52-8), filed December 15, 1980, was not acted upon until supplemented several times at the Court's request. In October of 1981, the Court ordered that Petitioner be permitted to take the February, 1982 bar examination but reserved the issue of his mental status.

Petitioner's response to the Court's Order granting him leave to take the February, 1982 bar examination was a letter dated November 9, 1981, accusing the Chief Justice of the Arizona Supreme Court of manufacturing grounds for delay and of deliberate bad faith and vengeful motives; accusing the Arizona Supreme Court and its bar appointees of anti-Semitism; alleging that the Special Committee conducted an engineered fraud; accusing seven members of the bar and one

Justice of the Arizona Supreme Court of conspiring to give substance to baseless charges; alleging that the Chief Justice of the Arizona Supreme Court had a sadistic bent and utter disrespect for Constitutional government; and accusing the secretary of the State Bar of violating the anonymity of the bar examination examinees.

Petitioner took but failed to pass a portion of the examination in February; however, following his ninth application (SB-52-9), Petitioner took and passed the July, 1982 examination.

On April 20, 1982, the Arizona Supreme Court granted Petitioner a hearing on his application for admission and appointed the Honorable Paul W. LaPrade, Judge of the Arizona Superior Court, to act as Court Master in conducting the hearing. A pre-hearing conference was

held in May, 1982, and, as reflected in its Order of June 30, 1982, since it was apparent from that conference, prior pleadings and correspondence that Petitioner intended to use any such hearing to relitigate Application of Ronwin, supra, the respondent Court limited the hearing to the pending application, as supplemented and amplified, and to consideration of evidence bearing upon Petitioner's current qualifications to practice law.

On October 19, 1982, Petitioner stipulated in writing that the Court Master could decide the issue without a formal evidentiary hearing, based upon the contents of the record in SB-52-8 and SB-52-9 and upon current written psychiatric/psychological reports. Petitioner subsequently moved for Permission to Withdraw from the Stipulation,

contending that it was too limiting in the matters the Court Master could consider, which Motion was denied.

The Court Master's Report, which was filed with the Arizona Supreme Court on November 4, 1982, concluded that Petitioner was not mentally fit for the practice of law. In reaching this conclusion, however, Judge LaPrade went beyond the limits of the Stipulation and considered pleadings and affidavits signed and filed by Petitioner in the various federal district court cases described above. The Arizona Supreme Court struck the extraneous matters from the Report; however, because Judge LaPrade's Report was based on many evidentiary items which were not within the parameters of the Stipulation, the Court decided not to rely on such Report but to make an independent review of the record. (Order of

Arizona Supreme Court, filed April 27, 1983) (Pet. App. at A-55). In the same Order, Petitioner was allowed to file a memorandum directed to this procedure and to the issues raised by the record, and specifically directed to submit by affidavit or offer of proof any other factual matter which he wished the Court to consider. Petitioner did file a 15 page document entitled "Motion Concerning Order of April 27, 1983," in which he reiterated his version of the Application of Ronwin scenario, vilified each of the Justices of the Arizona Supreme Court, requested that all psychiatric/psychological reports on file be considered and refused to waive an evidentiary hearing on his various allegations of conspiracy and misconduct on the part of judges, lawyers, teachers, physicians and others, but chose not to submit any further factual information.

Upon review of all pertinent records, submissions by Petitioner and other pertinent materials, the Arizona Supreme Court issued its written Opinion denying admission to the State Bar. (SB 528/SB 52-9, Opinion filed July 6, 1983) (Pet. App. A-1.) Petitioner's request for a Writ of Certiorari followed.

## REASONS FOR DENYING THE WRIT

### A. Petitioner Has Defined No Special Or Important Reason Which Justifies Review On A Writ Of Certiorari.

Petitioner has not challenged the constitutionality of any State statute or Court rule governing membership in the State Bar of Arizona. He has defined no conflict among the decisions of Federal or State courts. He has pointed to no question of Federal law raised in this matter which has not been settled by this Court. Instead, Petitioner seeks review of a factual situation that is both unique

and extremely limited in scope. In short, Petitioner has advanced no reason to justify review on a Writ of Certiorari.

In refusing Petitioner admission to the State Bar of Arizona, the Arizona Supreme Court was simply exercising its recognized right to gauge on a case-by-case basis the fitness of a particular applicant to practice law. In re Griffiths, 413 U.S. 717 (1973). The States unquestionably retain authority to require high standards of proficiency, including "good moral character" or "mental ability," as prerequisites for the granting of a license to practice law. As this Court recognized in Schware v. Board of Bar Examiners of the State of New Mexico, 353 U.S. 232, 249 (1957):

> To a wide and deep extent, the law depends upon the discipline standards of the profession and belief in the integrity of the courts. We cannot

> have failed to accord such confidence to the State process, and we must attribute to its courts the exercise of a fair and not a biased judgment in passing upon the applications of those seeking entry into the profession.

Unless the refusal to grant an applicant admission to its Bar is based upon wholly arbitrary standards or upon considerations that offend the dictates of reason, such decisions must be left to the individual State courts:

> Especially in this realm, it is not our business to substitute our judgment for the State's judgment -- for it is the State in all the panoply of its powers that it is under review when the action of its Supreme Court is under review. Id. at 248.

No suggestion has been made in Petitioner's Brief that Arizona's procedure for determining questions of admission discriminates on the basis of an inherently suspect classification, In re Grif-

fiths, supra; improperly inquires into an applicant's views and beliefs, Baird v. State Bar of Arizona, 401 U.S. 1 (1971); denies admission because of an applicant's refusal to divulge information protected by the First Amendment, Application of Stolar, 401 U.S. 23 (1971); or applies invalid statutes and rules, Law Students Civil Rights Research Council, Inc. v. Wadmond, 401 U.S. 154 (1971). Accordingly, the Petition should be summarily denied.

B. Petitioner Was Not Deprived Of Any Right, Privilege Or Immunity Secured By The United States Constitution And Laws.

A fair reading of Petitioner's Brief indicates that he believes the process afforded him produced an unfair result. Even if that were true, the fact that Arizona rules and procedures pertaining to Bar admission may result in incidental individual inequality does not render

them offensive to the due process elements of the Fourteenth Amendment. Martin v. Walton, 368 U.S. 25 (1961).

Petitioner presents two arguments: First, that the Arizona Supreme Court's prior decision in Application of Ronwin, supra, was improper; and second, that the most recent opinion of the Respondent Court was also in error. Petitioner's first argument has been raised in several federal court actions, and has been rejected in each such instance. Additionally, this Court has declined to grant Certiorari in no less than four of these cases. The Arizona Supreme Court's decision in Application of Ronwin, supra, is final, and the doctrines of res judicata and collateral estoppel serve to preclude any further litigation arising out of this Opinion. Sea-Land Services, Inc. v. Gaudert, 414 U.S. 573 (1974); Ashe v. Swenson, 397 U.S. 436 (1970).

Petitioner's argument, therefore, is limited to alleged improprieties in the Arizona Supreme Court's review of Petitioner's most recent application and in its Opinion denying admission to the State Bar. The nature of Respondent's review has been previously discussed, and is set forth both in its Order of April 27, 1983 (Pet. App. at A-55), and its Opinion of July 6, 1983 (Pet. App. at A-1). Petitioner's contention that a more formal evidentiary hearing is mandated lacks merit.

This Court has emphasized on several occasions that due process of law does not require a hearing in every conceivable instance. Rather, because the very nature of due process requires flexible procedures, each set of circumstances must be examined to determine exactly "what process is due" in the particular context.

Stanley v. Illinois, 405 U.S. 645 (1972). Only through an examination of particular circumstances can a determination be made as to what sort of hearing must be afforded. Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950).

Petitioner made it abundantly clear that any "evidence" he wished to present would be, in effect, an attempt to relitigate Application of Ronwin, supra.[3/] As discussed above, such "relitigation" is impermissible. The pertinent issue is petitioner's current ability and qualifications to practice law in Arizona. Cognizant of the relevant issue, the Court's inquiry was properly limited to the events that occurred subsequent to its 1976

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3/ Petitioner has filed numerous Motions for Rehearing of Application of Ronwin, the most recent of which was a 26 page brief filed August 27, 1982.

Opinion, including the recent psychiatric/ psychological reports.[4/]

Following the initial hearings in 1975, the Special Committee had found that petitioner was suffering from an established personality disorder of a character and pattern which, in its opinion, would persist in the event Petitioner was admitted to the practice of law. In its 1976 decision upholding the Special Committee's finding, the Arizona Supreme Court had stated:

> We believe that it is imperative that the term "mentally . . . able to engage in active and continuous practice of law" be construed to exclude persons whose long-standing personality traits indicate an obvious in-

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[4/] It should be noted that, although directed to do so, Petitioner failed to submit any additional factual material to Respondent following its Order of April 27, 1983, other than a request that Respondent review prior psychiatric/ psychological reports, which it did.

> ability to get along with authority figures under situations of minor stress and conflict, whether or not these personality deficiencies rise to the level of medically recognized and categorized mental disorders. 113 Ariz. at 359, 555 P.2d at 317.

The findings of the Special Committee in 1975 were based upon expert psychiatric/psychological testimony. As part of the assessment of Petitioner's current mental capability to practice law in Arizona, he agreed to be re-examined in July of 1982 by both a psychiatrist, Dr. Richard Duisberg, and a psychologist, Dr. Aaron Canter.

While both doctors found that petitioner does not have a recognized mental disorder or abnormality which would necessarily impair his capacity to conform to the rules and ethical considerations of the Arizona and American Bar Associations, both found that petitioner does

have a "Compulsive Personality Disorder" as defined on Axis II of the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) (DSM-III) published by the American Psychiatric Association. A description of this Disorder and its diagnostic criteria can be found in the Appendix at A-6.

As a result of his examination, Dr. Duisberg found, in part:

> [Petitioner] is obviously lacking in emotional flexibility and the ability to compromise. He sees black and white quite clearly but is blind to gray. Thus, he is over-zealous in the pursuit of what he considers to be justice -- not only for himself but in general.
>
> Although paranoid attitudes are present, they are not based on delusional thinking, but rather on his inflexibility and meticulous dedication to perfectionism.
>
> The DMS III contains descriptions of a large number of emotional disorders, including organic, functional and charac-

terological ones. The latter cover a wide area and every "normal" individual manifests traits and behavior patterns included in these profiles.

It is my opinion that the applicant can best be classified as fitting the pattern of "compulsive personality disorder" (DMS III, 300.40 [sic]). As a result of the inflexibility inherent in this type of personality he has, in recent years, become increasingly entangled in his compulsive quest for "justice." Though this certainly has paranoid features, I do not feel that he is lacking in a capacity for objective evaluations in other areas. Indeed, he might even prove effective in matters concerning civil rights, liabile [sic], etc., though in these areas he might find himself excessively emotionally involved.

I believe that he is, as a perfectionist, essentially ethical, conscientious and reliable though not necessarily likeable. As is characteristic of most compulsive personalities, he is probably excessively devoted to work and duty to the exclusion of pleasure and inter-personal relationships. He is probably restricted in his ability to express friendly emotions, being overly serious, formal and con-

ventional. He is clearly unable to submit to situations which he feels are unfair or unjust and is deficient in awareness of his own role in eliciting from others criticism, rejection or difference of opinion. He has, as most perfectionists, a lack of ability to grasp generalities but is overly preoccupied with details, rules, regulations, etc.

Dr. Canter reached similar conclusions:

> Detailed analysis of [petitioner's] Rorschach performance strongly suggests a compulsive personality structure. The current Rorschach reveals ideational productivity, meticulous description of the blots, emphasis on symmetry and precision, and obsessive preoccupation with minutiae, all of which are typical of the compulsive individual. His test behaviors suggest that in life situations he would tend to lose sight of the broader issues and/or the emotional aspects of problem situations. He is inclined to be highly scientific and legalistic in his approach, with a lack of warmth or empathy for his fellow man. This paucity of empathy and sensitivity to the feelings of others would be a barrier to effective inter-

personal relationships. Many people would experience him as an abrasive, aggressive, hostile individual.

The suspiciousness, hypersensitivity,, secretiveness, and obsessive pre-occupation with actions he feels are directed against him, are all behaviors which suggest, of course, elements of paranoid personality disorder. However, after careful consideration, it is my professional judgment that the psychological examinations and behaviors are most consistent with the diagnostic criteria of a compulsive personality disorder (301.40 on Axis II of DSM III.) Among the primary criteria for this diagnosis are restricted emotionality, perfectionism, the insistence that others submit to one's way of doing things, and excessive devotion to work productivity. These are the elements which, according to the present psychological examinations, are most dominant in Dr. Ronwin.

Petitioner also submitted the medical report of Dr. Taylor, a psychiatrist who examined petitioner in Iowa. Although Dr. Taylor reported that he found no indication that Petitioner now suffers from

any type of mental illness, disorder or defect, he acknowledged that Petitioner possessed personality traits "which might be termed unpleasant or abrasive by those adopting positions in opposition to those held by [Petitioner]." Dr. Taylor could only state that it was "possible" (not probable) that such personality traits would not impair Petitioner's ability to competently practice law. In summary, the professional opinions indicate no significant change in Petitioner's attitudes or conduct, which conclusion is reinforced by an examination of Petitioner's letters, pleadings and affidavits over the last nine years.

The main case upon which Petitioner relies does not support his position that the Respondent Court has violated his rights. In Schware v. Board of Bar Examiners of State of New Mexico, supra, the

important inquiry was whether the applicant was currently qualified to be admitted to the practice of law. The key to the Court's decision in favor of the applicant was the fact that his conduct for the fifteen years preceding his application for admission to the Bar had been exemplary. In the instant case, Petitioner has consistently demonstrated through conduct and in writing his inability to accept or put to rest the events that occurred nine years ago, or to professionally engage in an adversarial situation. Such actions were succinctly summarized by the Arizona Supreme Court in its most recent Opinion:

> From examination of the pleadings and affidavits prepared, signed and filed by Ronwin in our files and in the various Federal Court actions, it is apparent that applicant's personality disorder affects his conduct. With neither care nor caution, and restrained only

> by the outer limits of his intense anger, Ronwin has filled his pleadings with allegations of serious misconduct against the willing and unwilling participants in the proceedings that have led him to his present plight. These are not allegations of legal error, but, rather, accusations of knowing misconduct, plus misfeasance in office. (Pet. App. at A-21-22.)

As the respondent Court further pointed out in its Opinion:

> Lawyers certainly have the right to become outraged and to resort to litigation when they have a good-faith belief that they have been wronged, but they do not have the right to file actions or commence proceedings which are vexatious or harassing in nature. See In re Martin-Trigona, 55 Ill.2d 301, 308-10, 302 N.E.2d 68, 72-73 (1973); see also, Matter of Wetzel, 118 Ariz. 33, 35, 574 P.2d 826, 828 (1979). Nor do lawyers have the right to behave inappropriately while acting as lawyers, even when they are representing themselves. See In re Martin-Trigona, supra; In re Mezzacca, 67 N.J. 387, 389, 340 A.2d 658, 659 (1975).
>
> These principles are not limited to case law. Arizona

has adopted, with some modifications, the Model Code of Professional Responsibility. Rule 29(a). DR 7-106(C)(6) states that a lawyer shall not "[e]ngage in undignified or discourteous conduct which is degrading to a tribunal." DR 8-102(B) states that a "lawyer shall not knowingly make false accusations against a judge or other adjudicatory officer." Ariz. R. Civ. P. 11 also forbids inserting "scandalous or indecent" matters in pleadings and requires a belief in the existence of good grounds to support all allegations, with provision for disciplinary action where appropriate. Implicit in these rules is the requirement that lawyers exercise restraint in language and deed while acting as lawyers, particularly in relation to litigation. See Model Code of Professional Responsibility EC 7-36, 7-37, 7-38 (1980). The rules are explicit on the question of litigation. A lawyer "shall not" file actions, assert positions or take other action on behalf of clients when he or she knows "or when it is obvious that such action would serve merely to harass or maliciously injure another." DR 7-102(A)(1) (emphasis supplied). Nor should they file claims or actions unless the case is supported by law or tenable argument. Id.

(A)(2). What lawyers cannot do for clients, they cannot do for themselves. Matter of Wetzel, supra. Violation of the foregoing requirements is grounds for denial of admission. In re Martin-Trigona, supra; Application of Feingold, 296 A.2d 492, 500 (Me. 1972). (Pet. App. at A-18-21.)

After citing examples from Petitioner's various federal court filings (see pp. 6-14 above), the Arizona Supreme Court concluded:

> The examples cited suffice to establish that Ronwin's reaction to adversity manifests itself in behavior which is grossly improper for a lawyer and which cannot be tolerated. This conclusion does not evince a lack of toleration for Ronwin; it simply acknowledges that we can make no special rule for Ronwin. What is permitted Ronwin is necessarily permitted all other members of our Bar. Habitual filing of actions against adjudicatory officers, witnesses and opposing counsel is both vexatious and harassing. Worse, it is a tactic calculated to intimidate. It cannot be tolerated unless we are willing to surrender reason to those whose conduct is uninhabited by

realty and civility. Adjudication of facts and resolution of legal disputes cannot be properly accomplished in the absence of restraint and civilized behavior by lawyers. Care with words and respect for courts and one's adversaries is a necessity, not because lawyers and judges are without fault, but because trial by combat long ago proved unsatisfactory. (Pet. App. at A-26-27.)

* * *

We acknowledge, arguendo, that applicant believes he is the victim of a conspiracy which encompasses this court, most of the federal bench, the organized Bar, the Bar Committees and the lawyers who have participated in the various cases. This is the recurring theme in the civil rights actions which Ronwin filed. We think, however, that Ronwin's sincere belief in this supposed, wide-ranging conspiracy against him is not all that is required for the practice of law. Belief unrelated to reason is a hallmark of fanaticism, zealotry or paranoia rather than reasoned advocacy. The practice of law requires the ability to discriminate between fact and faith, evidence and imagination, reality and hallucination. Further, epithets, verbal abuse,

> unfounded accusations and the like have no place in legal proceedings. While occasional lapses in decorum are usually overlooked, Ronwin's transgressions exceed occasional anger or loss of control. They form a pattern and a way of life which, on this record, appears to be applicant's normal reaction to personal or professional adversity. (Pet. App. at A-31-32.)

This Court has consistently upheld the States' right to determine whether an applicant has the requisite qualities of character, mental fitness and professional competence necessary for the practice of law. In Baird v. State Bar of Arizona, supra, the petitioner claimed her first amendment rights had been violated as a result of certain questions on the bar application form. In distinguishing between what could and could not be regulated by the State, the Court held:

> "[T]he [First] Amendment embraces two concepts - freedom to believe and freedom to act.

> The first is absolute, but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society." 401 U.S. at 5, quoting Cantwell v. Connecticut, 310 U.S. 296, 303-304 (1940).

Petitioner herein has consistently demonstrated a lack of respect for the administration of justice through his vilification of both the judiciary and those he perceives as adversaries. Such conduct is not constitutionally protected, and has in other cases resulted not only in denial of admission to practice, but also disciplinary action or disbarrment proceedings against those previously admitted. See generally, Annot., Licensing And Regulation Of Attorneys As Restricted By Rights Of Free Speech, Expression And Association Under First Amendment, 56 L.Ed.2d 841 (1979); Annot., Attorney's Criticism of Judicial Acts As Ground For

Disciplinary Action, 12 A.L.R.3d 1408 (1967).

In summary, although Petitioner may be academically qualified, he has not demonstrated that he is mentally fit to practice law. The refusal to accept the finality of Application of Ronwin, supra, the filing of unwarranted, vexatious and harrassing actions, the consistent use of intemperate and provocatory language and ephithets, the demonstrated lack of control, restraint and civility and the persistent habit of vilifying those he perceives as adversaries all point to one conclusion. As the Illinois Supreme Court held in a somewhat similar case:

> While it is not challenged that [the applicant] may possess the requisite academic qualifications to practice law, the record overwhelmingly establishes that he lacks the qualities of responsibility, candor, fairness, self-restraint, objectivity and

respect for the judicial system which are necessary adjuncts to the orderly administration of justice. In re Martin-Trigona, 55 Ill.2d at 312, 302 N.E.2d at 74.

## CONCLUSION

The decision and actions of the Arizona Supreme Court were consistent with the decisions of this Court and the due process requirements of the Fourteenth Amendment. The Petition for Writ of Certiorari should be denied.

RESPECTFULLY SUBMITTED this 15th day of October, 1983.

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RULES 28(a), 28(c)IV, 28(c)XIIL.C AND 28(c)XII.F, RULES OF THE ARIZONA SUPREME COURT

Rule 28. Examination and Admission

28(a) Committees on examinations and admissions: powers and duties. The examination and admission of applicants for membership in the State Bar of Arizona shall conform to this rule. For such purposes two committees shall be constituted. One Committee shall be the Committee on Examinations. The other Committee shall consist of seven active members of the State Bar appointed by the Court upon the recommendation of the Board of Governors of the State Bar which shall recommend at least three members of the State Bar for each appointment to be made. Members of the two Committees shall serve for seven year terms. In the case of the Committee on Character and Fitness now being separately established the seven initial appointments shall be for terms of seven, six, five, four, three, two and one year respectively. Thereafter, upon the expiration of a member's term, the Court shall appoint a new member to serve for a term of seven years. As to each Committee, in the event of a resignation or inability of a committee member to serve, the Court shall appoint another person to serve the unexpired term. The Committee on Examinations shall examine applicants and advise this Court and the Committee on Character and Fitness of those who have passed the examination for admission to the State Bar of Arizona. The Committee on Character and Fitness shall recommend to this Court for admission to the State Bar of Arizona

those individuals who, having passed the examination for admission to the State Bar of Arizona, are deemed by the Committee to be qualified on the basis of character and fitness. The Court will then consider the recommendations and either grant or deny admission.

* * * *

28(c) Rules governing admission of applicants to the State Bar of Arizona, as amended.

* * * *

IV. APPLICANT REQUIREMENTS AND QUALIFICATIONS

On the basis of a properly completed application timely filed the applicant will be entitled to sit for the bar examination.

No applicant for admission to the State Bar of Arizona shall be recommended for admission by the Committee on Character and Fitness unless the Committee is satisfied:

1. That the applicant is or at the time of the examination will be over the age of twenty-one (21) years:

2. That he is of good moral character:

3. That he is mentally and physically able to engage in active and continuous practice of law;

4. That he is a graduate of a law school provisionally or fully approved by the American Bar Association at the time of his graduation; provided that this requirement shall not apply to an applicant who has been actively engaged in the practice of law in some other state or states for at least five (5) years of the last seven (7) years prior to his application for admission to practice in Arizona.

5. That, if admitted to practice in any other state or states, he is in good standing in every such state.

The Committee on Character and Fitness may provide for early filing of an intention to seek admission to the State Bar of Arizona on the part of Arizona law students, after completion of their first year at the University of Arizona College of Law or Arizona State University College of Law, to enable expeditious inquiry into the character and fitness of the applicant and to facilitate the giving of advice and counsel on issues relating to character and fitness.

The Committee on Character and Fitness should endeavor to complete its inquiries on character and fitness so as to be in a position to recommend for or against a successful examinee's admission to the State Bar of Arizona no later than the time the results from the bar examination are available. In extraordinary cases more extended time for inquiry and

formulation of a recommendation may be required.

XII. RULES GOVERNING PROCEDURE BEFORE THE COMMITTEES

* * * *

C. Formal Hearings on Character and Fitness. If the Committee on Character and Fitness is unable to make the findings required to support a recommendation for the aoplicant's admission with respect to character and fitness, the Committee shall hold such hearing or hearings as may be reasonably required to enable the Committee to pass upon the applicant's qualifications. Notice of such hearing or hearings shall be given to the applicant in writing specifying the time and place for the hearing and advising the applicant as to the subject and purpose of the hearing.

After the hearing or hearings the Committee on Character and Fitness shall report to the Court its findings that the applicant meets the character and fitness requirements and should be admitted or that the Committee is unable to make such findings and recommendation, as the case may be. The applicant shall at the same time be informed of the Committee's recommendation.

* * * *

F. Review by the Supreme Court.

1. An applicant aggrieved by any decision of the Committee on Examinations or the Committee on Character and Fitness may within 20 days after such occurrence file a verified petition with this Court

for a review. The petition shall succinctly and briefly state the facts which form the basis for the complaint, and applicant's reasons for believing this Court should review the decision of the Committee on Examinations or the Committee on Character and Fitness.

2. A copy of said petition shall be promptly served upon the chairman or some member of the Committee from which the complaint arose and that Committee shall within 15 days of such service transmit said applicant's file and a response to the petition fully advising this Court as to that Committee's reasons for its decision and admitting or contesting any assertions made by applicant in said petition. Thereupon this Court shall consider the papers so filed together with the petition and response and make such order, hold such hearings and give such directions as it may in its discretion deem best adapted to a prompt and fair decision as to the rights and obligations of applicant judged in the light of that Committee's and this Court's obligation to the public to see that only qualified applicants are admitted to practice as attorneys at law.

## 301.40 Compulsive Personality Disorder

The essential feature is a Personality Disorder (p. 305) in which there generally are restricted ability to express warm and tender emotions; perfectionism that interferes with the ability to grasp "the big picture"; insistence that others submit to his or her way of doing things; excessive devotion to work and productivity to the exclusion of pleasure; and indecisiveness.

Individuals with this disorder are stingy with their emotions and material possessions. For example, such an individual, having misplaced a list of things to be done, will spend an inordinate amount of time looking for the list rather than spend a few moments to recreate the list from memory and proceed with accomplishing the activities. Time is poorly allocated, the most important tasks being left to the last moment. Although efficiency and perfection are idealized, they are rarely attained.

Individuals with this disorder are always mindful of their relative status in dominance-submission relationships. Although they resist the authority of others, they stubbornly insist that people conform to their way of doing things. They are unaware of the feelings of resentment or hurt that this behavior evokes in others. For example, a husband may insist that his wife complete errands for him regardless of her plans.

Work and productivity are prized to the exclusion of pleasure and the value of interpersonal relationships. When pleasure is considered, it is something to be planned and worked for. However, the individual usually keeps postponing the pleasurable activity, such as a vacation, so that it may never occur.

Decision-making is avoided, postponed, or protracted, perhaps because of an inordinate fear of making a mistake. For example, assignments cannot be completed on time because the individual is ruminating about priorities.

Associated features. Individuals with this disorder may complain of difficulty expressing tender feelings. Considerable distress is often associated with their indecisiveness and general ineffectiveness. Their speech may be circumstantial. Depressed mood is common. Individuals with this disorder tend to be excessively conscientious, moralistic, scrupulous, and judgmental of self and others. (For example, a man believed it was "sinful" for his neighbor to leave his child's bicycle in the rain.) When they are unable to control others, a situation, or their environment, they often ruminate about the situation and become angry, although the anger is usually not expressed directly. (For example, a man may be angry when service in a restaurant is poor, but instead of complaining to the management, ruminates about how much he will leave as a tip.) Frequently there is extreme sensitivity to social criticism, especially if it comes from someone with considerable status or authority.

Impairment. This disorder frequently is quite incapacitating, particularly in its effect on occupational functioning.

Complications. Obsessive Compulsive Disorder, Hypochondriasis, Major Depression and Dysthymic Disorder may be complications. Many of the features of Compulsive Personality Disorder are apparently present in individuals who develop myocardial infarction.

Predisposing factors. No information.

Prevalence and sex ratio. The disorder is apparently common and is more frequently diagnosed in men.

Familial pattern. The disorder is apparently more common among family members than in the general population.

Differential diagnosis. In Obsessive Compulsive Disorder there are, by definition, true obsessions and compulsion, which are not present in Compulsive Personality Disorder. However, if the criteria for both disorders are met, both diagnoses should be recorded.

Diagnostic criteria for Compulsive Personality Disorder

At least four of the following are characteristic of the individual's current and long-term functioning, are not limited to episodes of illness, and cause either significant impairment in social or occupational functioning or subjective distress.

(1) restricted ability to express warm and tender emotions,

e.g., the individual is unduly conventional, serious and formal, and stingy

(2) perfectionism that interferes with the ability to grasp "the big picture," e.g., preoccupation with trivial details, rules, order, organization, schedules, and lists

(3) insistence that others submit to his or her way of doing things, and lack of awareness of the feelings elicited by this behavior, e.g., a husband stubbornly insists his wife complete errands for him regardless of her plans

(4) excessive devotion to work and productivity to the exclusion of pleasure and the value of interpersonal relationships

(5) indecisiveness: decision-making is either avoided, postponed, or protracted, perhaps because of an inordinate fear of making a mistake, e.g., the individual cannot get assignments done on time because of ruminating about priorities.